



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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SACHI A. HAMAI  
Interim Chief Executive Officer

September 1, 2015

To: Mayor Michael D. Antonovich  
Supervisor Hilda L. Solis  
Supervisor Mark Ridley-Thomas  
Supervisor Sheila Kuehl  
Supervisor Knabe .

From: Sachi A. Hamai   
Interim Chief Executive Officer

Board of Supervisors  
HILDA L. SOLIS  
First District

MARK RIDLEY-THOMAS  
Second District

SHEILA KUEHL  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

## SACRAMENTO UPDATE - TOBACCO LEGISLATION

### Executive Summary

This memorandum contains reports on the following tobacco-related measures introduced as part of the Special Session on health care financing:

- **Pursuit of County Position on Legislation**
  - **SBx2 5 (Leno) and ABx2 6 (Cooper).** These measures would amend the Stop Tobacco Access to Kids Enforcement Act to add electronic cigarettes to the definition of smoking and tobacco products. Therefore, unless otherwise directed by the Board, consistent with existing policy to support proposals that would prevent youth access to tobacco products by limiting the promotion and availability of other tobacco products and electronic nicotine delivery systems, including e-cigarettes, **the Sacramento advocates will support SBx2 5 and ABx2 6.**
  - **SBx2 8 (Liu) and ABx2 9 (Thurmond and Nazarian).** These measures would expand eligibility for funding of the tobacco use prevention program to charter schools, and require all school districts, charter schools and county offices of education receiving funding under the program to adopt on-campus tobacco-free programs for pupils and teachers. Therefore, unless otherwise directed by the Board, consistent with existing policy to support proposals that would prevent youth access to tobacco products by limiting the promotion and availability of other tobacco products and electronic nicotine delivery systems, including e-cigarettes, **the Sacramento advocates will support SBx2 8 and ABx2 9.**

*"To Enrich Lives Through Effective And Caring Service"*

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- **Legislation of County Interest.** A report on tobacco legislation of County interest related to: smoking in the workplace; increasing the minimum age to purchase tobacco products; local tobacco taxes; and State tobacco taxes.
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### **Pursuit of County Position on Legislation**

**SBx2 5 (Leno)**, as amended on August 26, 2015, and **ABx2 6 (Cooper)**, as amended on August 27, 2015, are identical measures which would amend the Stop Tobacco Access to Kids Enforcement (STAKE) Act to add electronic cigarettes (e-cigarettes) to the definition of smoking and tobacco products. The measures would also require all cartridges for e-cigarettes to be in child-resistant packaging.

The Department of Public Health (DPH) indicates that SBx2 5 and ABx2 6 would help to address growing public health concerns related to the unregulated use of e-cigarettes by youth. According to DPH, under existing law, the STAKE Act, it is illegal to sell e-cigarettes to a minor. However, there is no provision in the State's tobacco control laws that permit enforcement agencies to conduct compliance checks or assess penalties. Under SBx2 5 and ABx2 6, e-cigarettes would be regulated similarly to traditional tobacco products and subject to the same licensing and enforcement regulations.

This office and the Department of Public Health support SBx2 5 and ABx2 6. Therefore, unless otherwise directed by the Board, consistent with existing policy to support proposals that would prevent youth access to tobacco products by limiting the promotion and availability of other tobacco products and electronic nicotine delivery systems, including e-cigarettes, **the Sacramento advocates will support SBx2 5 and ABx2 6.**

SBx2 5 and ABx2 6 are co-sponsored by the: American Cancer Society Cancer Action Network; American Health Association/American Stroke Association; American Lung Association; California College and University Policy Chiefs Association; and California Narcotic Officers Association. These measures are supported by the: California State Association of Counties; California Medical Association; California Police Chiefs; California Primary Care Association; First 5 Association of California; Attorney General Kamala Harris, and others. These measures are opposed by the Smoke-Free Alternative Trade Association.

SBx2 5 passed the Senate Floor by a vote of 25 to 13 on August 27, 2015. This measure now proceeds to the Assembly. ABx2 6 passed the Assembly Public Health and Developmental Services Committee by a vote of 10 to 2 on August 25, 2015. This measure now proceeds to the Assembly Committee on Finance.

**SBx2 8 (Liu)**, as amended on August 25, 2015, and **ABx2 9 (Thurmond and Nazarian)**, as amended on August 27, 2015, are identical measures which would expand eligibility for funding of the tobacco use prevention program to charter schools, and require all school districts, charter schools and county offices of education receiving funding under the program to adopt on-campus tobacco-free programs for pupils and teachers. The bills would also expand tobacco-free school campus policies to e-cigarettes.

The Department of Public Health reports that school districts and county offices of education that receive Proposition 99 funding for Tobacco Use Prevention Education (TUPE) are required to adopt and enforce a tobacco-free campus policy. However, only 46 percent of local education agencies statewide and 61 percent in the County are certified as tobacco-free under TUPE. According to DPH, SBx2 8 and ABx2 9 would close this gap and mandate that all school campuses are smoke-free. DPH also notes that expanding the definition of tobacco-free school campus policies to include e-cigarettes and nicotine delivery devices would help educate school-age youth on the potential health risks of these smoking-related systems.

This office and the Department of Public Health support SBx2 8 and ABx2 9. Therefore, unless otherwise directed by the Board, consistent with existing policy to support measures that would prevent youth access to tobacco products by limiting the promotion and availability of other tobacco products and electronic nicotine delivery systems, including e-cigarettes, **the Sacramento advocates will support SBx2 8 and ABx2 9.**

SBx2 8 and ABx2 9 are supported by the California Medical Association; California Primary Care Association; County Health Executives Association of California; First 5 Association of California; Health Access California; Service Employees International Union; and others. There is no opposition on file for these measures.

SBx2 8 passed the Senate Floor by a vote of 27 to 10 on August 27, 2015. This measure now proceeds to the Assembly. ABx2 9 passed the Assembly Public Health and Developmental Services Committee by a vote of 12 to 0 on August 25, 2015. This measure now proceeds to the Assembly Committee on Finance.

### **Legislation of County Interest**

**SBx2 6 (Monning)**, as amended on August 25, 2015, and **ABx2 7 (Stone)**, as introduced on July 16, 2015, are similar measures which would expand the prohibition of smoking in the workplace by eliminating and/or modifying almost all of the remaining exemptions previously established in the California Smoke-free Workplace Law. SBx2 6 and ABx2 7 would prohibit smoking in owner-operated businesses with no

employees, contract workers or volunteers in which the owner-operator of the business is the only employee. These measures would also eliminate the smoking of tobacco products in warehouse facilities, gaming clubs, bars and taverns, and break rooms previously designated by employers for smoking. Additionally, these measures would reduce the percentage of guestrooms in a hotel or lodging establishment in which smoking is allowed from sixty-five to twenty percent and prohibit smoking in motel and hotel lobbies and meeting or banquet rooms.

There is no Board-approved policy to support proposals which would prohibit smoking in owner-operated businesses with no employees, contract workers or volunteers in which the owner-operator of the business is the only employee; **Therefore, support for SBx2 6 and ABx2 7 is a matter for Board policy determination.**

SBx2 6 and ABx2 7 are supported by: the California Medical Association; California Primary Care Association; County Health Executives Association of California; First 5 Association of California; Health Access; Health Officers Association of California; Service Employees International Union; and others. There is no opposition on file for these measures.

SBx2 6 passed the Senate Floor by a vote of 24 to 13 on August 27, 2015. This measure now proceeds to the Assembly. ABx2 7 passed the Assembly Public Health and Developmental Services Committee by a vote of 10 to 3 on August 25, 2015. This measure has been referred to the Assembly Committee on Finance.

**SBx2 7 (Hernandez) and ABx2 8 (Wood)**, as introduced on July 16, 2015, are identical measures which would raise the minimum legal age to purchase and to possess tobacco products from 18 to 21 years of age. These measures would establish statewide restrictions for the purchase, sell, distribution and possession of tobacco products; however, they would not preempt or otherwise prohibit a local jurisdiction from imposing more restrictive measures.

According to the Department of Public Health, national data shows that 95 percent of adult smokers begin smoking before age 21 and that the critical period when many smokers move from experimental smoking to regular, daily use is between the ages of 18 to 21. DPH indicates that increasing the legal age to purchase tobacco products to 21 is expected to reduce the availability of tobacco products and help to deter this vulnerable population from becoming regular smokers.

There is no Board-approved policy to support proposals which would raise the legal age to purchase tobacco products from 18 to 21 years of age; **Therefore, support for SBx2 7 (Hernandez) and ABx2 8 (Wood) is a matter for Board policy determination.**

SBx2 7 and ABx2 8 are sponsored by the American Cancer Action Network and American Lung Association in California. These measures are supported by the: California State Association of Counties; California Medical Association; California Primary Care Association; First 5 Association of California; Health Access California; Santa Clara County Board of Supervisors; Solano County Board of Supervisors; Service Employees International Union; and others. These measures are opposed by the: American Legion-Department of California; AMVETS; Association of the United States Army; Military Officers Association of America; Military Order of the Purple Heart; Vietnam Veterans of America; and others.

SBx2 7 passed the Senate Floor by a vote of 25 to 11 on August 27, 2015. This measure now proceeds to the Assembly. ABx2 8 passed the Assembly Public Health and Developmental Services Committee by a vote of 9 to 4 on August 25, 2015. This measure now proceeds to the Assembly Committee on Finance.

**SBx2 9 (McGuire) and ABx2 10 (Bloom)**, as introduced on July 16, 2015, are identical measures which would allow a county board of supervisors to impose an unspecified tax for the privilege of distributing cigarette and tobacco products in incorporated and unincorporated cities within a county, subject to voter approval.

There is no Board-approved policy to support proposals to increase taxes on tobacco products; **Therefore, support for SBx2 9 and for ABx2 10 is a matter for Board policy determination.**

SBx2 9 and ABx2 10 are supported by: the First 5 California; March of Dimes; California Chapter; among others. These measures are opposed by the: California Chamber of Commerce; California Retailers Association; California Taxpayers Association; and others.

SBx2 9 passed the Senate Floor by a vote of 23 to 15 on August 27, 2015. ABx2 10 passed the Assembly Public Health and Developmental Services Committee by a vote of 9 to 4 on August 25, 2015, and it now proceeds to the Assembly Committee on Finance.

**SBx2 13 (Pan and Hernandez) and ABx2 16 (Bonta)**, as introduced on August 26, 2015, are identical measures which would impose an additional State tax on cigarette distributors, increasing the State tax from \$.87 per pack to \$2.87 per pack. The measures would apply an equivalent State tax increase on distributors of tobacco products and would broaden the definition of tobacco products to include e-cigarettes. Revenue generated by the increased State tax would be dedicated to fund health care and tobacco prevention programs.

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There is no Board-approved policy to support proposals to increase State taxes on tobacco or tobacco products. **Therefore, support for SBx2 13 and for ABx2 16 is a matter for Board policy determination.**

SBx2 13 and ABx2 16 are awaiting referral to a policy committee.

We will continue to keep you advised.

SAH:JJ:MR  
VE:TOF:gl

c: All Department Heads  
Legislative Strategist